

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SARAH LESLIE,	)	Case No. 08-CV-0520-W (JMA)
	)	
Plaintiff,	)	<b>CASE MANAGEMENT CONFERENCE</b>
	)	<b>ORDER REGULATING DISCOVERY AND</b>
v.	)	<b>OTHER PRETRIAL PROCEEDINGS</b>
	)	
STANDARD INSURANCE CO., et al.,	)	(Fed. R. Civ. P. 16)
	)	(Local Rule 16.1)
Defendants.	)	(Fed. R. Civ. P. 26)
	)	
	)	

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a telephonic Case Management Conference was held on August 4, 2008 at 2:30 p.m. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing,

**IT IS HEREBY ORDERED:**

1. All parties shall fully comply with the Initial Disclosure requirements of Rule 26(a)(1) by August 18, 2008.

2. Any motion to join other parties, to amend the pleadings, or to file additional pleadings shall be filed on or before September 29, 2008.

1           3.    A telephonic Case Management Conference shall be held  
2 before Magistrate Judge Adler on October 16, 2008 at 9:30 a.m.  
3 Counsel for each party shall appear telephonically at this  
4 conference. The Court will initiate the conference call.

5           4.    Plaintiff's expert disclosures required by Fed. R. Civ.  
6 P. 26(a)(2) shall be served on all parties on or before January  
7 23, 2009. Defendant's expert disclosures required by Fed. R.  
8 Civ. P. 26(a)(2) shall be served on all parties on or before  
9 February 13, 2009. Any contradictory or rebuttal information  
10 shall be disclosed by both parties on or before March 6, 2009.  
11 In addition, Fed. R. Civ. P. 26(e)(1) imposes a duty on the  
12 parties to supplement the expert disclosures made pursuant to  
13 Fed. R. Civ. P. 26(a)(2)(B) by the time that pretrial disclosures  
14 are due under Fed. R. Civ. P. 26(a)(3) (discussed below). This  
15 disclosure requirement applies to all persons retained or  
16 specially employed to provide expert testimony, or whose duties  
17 as an employee of the party regularly involve the giving of  
18 expert testimony.

19           **Please be advised that failure to comply with this section**  
20 **or any other discovery order of the Court may result in the**  
21 **sanctions provided for in Fed. R. Civ. P. 37, including a**  
22 **prohibition on the introduction of experts or other designated**  
23 **matters in evidence.**

24           5.    All discovery shall be completed by all parties on or  
25 before April 3, 2009. "Completed" means that all discovery under  
26 Rules 30 through 36 of the Federal Rules of Civil Procedure must  
27 be initiated a sufficient period of time in advance of the cutoff  
28 date, so that it may be completed by the cutoff date, taking into

1 account the times for service, notice, and response as set forth  
 2 in the Federal Rules of Civil Procedure. All disputes concerning  
 3 discovery shall be brought to the attention of Magistrate Judge  
 4 Adler no later than thirty (30) days following the date upon  
 5 which the event giving rise to the dispute occurred. For oral  
 6 discovery, the event giving rise to the discovery dispute is the  
 7 completion of the transcript of the affected portion of the  
 8 deposition. For written discovery, the event giving rise to the  
 9 discovery dispute is the service of the response. Counsel are  
 10 required to meet and confer prior to contacting the Court  
 11 regarding all discovery disputes pursuant to the requirements of  
 12 Local Rules 16.5(k) and 26.1(a).

13 6. All motions, other than motions to amend or join  
 14 parties, or motions in limine, shall be filed on or before May 4,  
 15 2009.<sup>1</sup> Motions will not be heard or calendared unless counsel  
 16 for the moving party has obtained a motion hearing date from the  
 17 law clerk of the judge who will hear the motion. Be advised that  
 18 the period of time between the date you request a motion date and  
 19 the hearing date may be up to sixty (60) days. Please plan  
 20 accordingly. Failure of counsel to timely request a motion date  
 21 may result in the motion not being heard.

22 Briefs or memoranda in support of or in opposition to any  
 23 pending motion shall not exceed twenty-five (25) pages in length  
 24 without leave of the judge who will hear the motion. No reply  
 25 memorandum shall exceed ten (10) pages without such leave of  
 26

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27 <sup>1</sup>Counsel should note that while historically motion cutoff  
 28 deadlines issued by this Court were deadlines for motion hearings, the  
 motion cutoff dates now being issued establish deadlines for the  
 parties to file motions.

1 court.

2 7. Pursuant to Local Rule 7.1(f)(3)(c), **if an opposing**  
3 **party fails to file opposition papers in the time and manner**  
4 **required by Local Rule 7.1(e)(2), that failure may constitute a**  
5 **consent to the granting of a motion or other request for ruling**  
6 **by the Court.** Accordingly, all parties are ordered to abide by  
7 the terms of Local Rule 7.1(e)(2) or otherwise face the prospect  
8 of any pretrial motion being granted as an unopposed motion  
9 pursuant to Local Rule 7.1(f)(3)(c).

10 8. Should either party choose to file or oppose a motion  
11 for summary judgment or partial summary judgment, no Separate  
12 Statement of Disputed or Undisputed Facts is required.

13 9. A Mandatory Settlement Conference shall be conducted on  
14 **July 28, 2009 at 10:00 a.m.** in the chambers of Magistrate Judge  
15 Adler. Counsel shall submit settlement statements **directly** to  
16 Magistrate Judge Adler's chambers no later than **July 21, 2009.**<sup>2</sup>  
17 The parties may either submit confidential settlement statements  
18 or may exchange their settlement statements. Each party's  
19 settlement statement shall set forth the party's statement of the  
20 case, identify controlling legal issues, concisely set out issues  
21 of liability and damages, and shall set forth the party's  
22 settlement position, including the last offer or demand made by  
23 that party, and a separate statement of the offer or demand the  
24 party is prepared to make at the settlement conference. **The**  
25 **settlement conference briefs shall not be filed with the Clerk of**  
26 **the Court.**

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28 <sup>2</sup>Statements may be delivered directly to chambers, e-mailed to  
[efile\\_adler@casd.uscourts.gov](mailto:efile_adler@casd.uscourts.gov), or faxed to (619) 702-9939.

1 All named parties, all counsel, and any other person(s)  
2 whose authority is required to negotiate and enter into  
3 settlement shall appear in person at the conference. The  
4 individual(s) present at the Mandatory Settlement Conference with  
5 settlement authority must have the unfettered discretion and  
6 authority on behalf of the party to: 1) fully explore all  
7 settlement options and to agree during the Mandatory Settlement  
8 Conference to any settlement terms acceptable to the party (G.  
9 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653  
10 (7th Cir. 1989)), 2) change the settlement position of a party  
11 during the course of the Mandatory Settlement Conference (Pitman  
12 v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003)),  
13 and 3) negotiate a settlement without being restricted by any  
14 predetermined level of authority (Nick v. Morgan's Foods, Inc.,  
15 270 F.3d 590, 596 (8th Cir. 2001)).

16 Governmental entities may appear through litigation counsel  
17 only. As to all other parties, appearance by litigation counsel  
18 only is not acceptable. Retained outside corporate counsel shall  
19 not appear on behalf of a corporation as the party who has the  
20 authority to negotiate and enter into a settlement. **The failure**  
21 **of any counsel, party or authorized person to appear at the**  
22 **Mandatory Settlement Conference as required will result in the**  
23 **immediate imposition of sanctions.** All conference discussions  
24 will be informal, off the record, privileged, and confidential.

25 10. The parties must comply with the pretrial disclosure  
26 requirements of Fed. R. Civ. P. 26(a)(3) no later than August 10,  
27 2009.

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1        11. Despite the requirements of Local Rule 16.1(f), neither  
2 party is required to file Memoranda of Contentions of Fact and  
3 Law at any time. The parties shall instead focus their efforts  
4 on complying with their pretrial disclosure requirements under  
5 Fed. R. Civ. P. 26(a)(3) and drafting and submitting a proposed  
6 pretrial order by the time and date specified in Local Rule  
7 16.1(f)(6).

8        12. Counsel shall confer and take the action required by  
9 Local Rule 16.1(f)(4) on or before August 17, 2009.

10       13. The Proposed Final Pretrial Conference Order, including  
11 written objections, if any, to any party's Fed. R. Civ. P.  
12 26(a)(3) pretrial disclosures, shall be prepared, served, and  
13 submitted to the Clerk's Office on or before August 24, 2009 and  
14 shall be in the form prescribed in Local Rule 16.1(f)(6). Any  
15 objections shall comply with the requirements of Fed. R. Civ. P.  
16 26(a)(3). **Please be advised that the failure to file written**  
17 **objections to a party's pretrial disclosures may result in the**  
18 **waiver of such objections, with the exception of those made**  
19 **pursuant to Rules 402 (relevance) and 403 (prejudice, confusion**  
20 **or waste of time) of the Federal Rules of Evidence.**

21       14. In addition to submitting the proposed final pretrial  
22 conference order, the parties are further ordered to separately  
23 submit informal letter briefs, not exceeding two single spaced  
24 pages, served on opposing counsel and received in the chambers of  
25 the Honorable Thomas J. Whelan, United States District Court  
26 Judge (and not filed with the Clerk's Office) no later than  
27 August 24, 2009.

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1 The letter brief should be a relatively informal and  
2 straightforward document. The letter brief should outline a  
3 short, concise and objective factual summary of the party's case  
4 in chief, the number of hours/days each party intends to expend  
5 at trial, the approximate number of witnesses, whether certain  
6 witnesses will be coming in from out of town, the number of  
7 testifying expert witnesses, whether any unique demonstrative  
8 exhibits may be presented, the number of proposed motions in  
9 limine that may be filed, precisely when the parties would be  
10 prepared to submit their in limine papers (and whether the  
11 parties have met and conferred with respect to in limine issues),  
12 the issue of proposed jury instructions and when the parties  
13 intend to submit them before trial, and voir dire issues, either  
14 party's preference as to what date(s) the trial should begin and  
15 any other pertinent information that either party may deem useful  
16 to assist the Court in the execution of the pretrial conference  
17 and in setting the matter for trial.


18 15. The final Pretrial Conference is scheduled on the  
19 calendar of the Honorable Thomas J. Whelan on August 31, 2009 at  
20 10:30 a.m. The trial date will be assigned by Judge Whelan at  
21 the pretrial conference.

22 16. The dates and times set forth herein will not be  
23 modified except for good cause shown.

24 17. Plaintiff's counsel shall serve a copy of this order on  
25 all parties that enter this case hereafter.

26 **IT IS SO ORDERED.**

27 DATED: August 4, 2008

28   
Jan M. Adler  
U.S. Magistrate Judge